



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CARLOS VEGA,

Plaintiff,

-against-

10 Civ. 6131 (DAB)  
ADOPTION OF REPORT  
AND RECOMMENDATION

CAPTAIN WESTERN, CORRECTION OFFICER  
JANE DOE (11:00 PM to 7:00 AM) SHIFT,

Defendants.  
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DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the October 6, 2011 Report and Recommendation of United States Magistrate Judge Gabriel W. Gorenstein (the "Report"). Judge Gorenstein's Report recommends that Defendant Irshaad Weston's<sup>1</sup> Motion for Summary Judgment, filed May 27, 2011, be GRANTED in its entirety. (Report at 1, 8-9.)

"Within fourteen days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of the

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<sup>1</sup> Judge Gorenstein's Report notes that "Plaintiff's complaint incorrectly refers to Irshaad Weston as "Captain Western," as do some other portions of the record." (Report at 1, note 1.)

report to which no timely objection has been made, so long as there is no clear error on the face of the record. Wilds v. United Parcel Serv., Inc., 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003). “[F]ailure to object timely to a magistrate’s report operates as a waiver of any further judicial review of the magistrate’s decision.” Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008) (quoting Small v. Sec. of HHS, 892 F.2d 15, 16 (2d Cir. 1989)). This rule applies to pro se parties so long as the magistrate’s report “explicitly states that failure to object to the report within [fourteen (14)] days will preclude appellate review...” Small, 892 F.2d at 16.

Despite being advised of the procedure for filing objections in Judge Gorenstein’s Report, and warned that failure to file objections would waive objections and preclude appellate review, (Report at 9), Plaintiff Carlos Vega has filed no objections to the Report. Nor has any other Party filed objections to the Report.

Having reviewed the Report, and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED AND ADJUDGED that the Report and Recommendation of United States Magistrate Judge Gabriel W. Gorenstein, dated October 6, 2011, be and the same hereby is APPROVED, ADOPTED, and RATIFIED by the Court in its entirety. For the reasons detailed

in Judge Gorenstein's Report, Defendant's Motion for Summary Judgment is GRANTED. The Clerk is directed to close the docket in this case.

SO ORDERED.

Dated: New York, New York

February 16, 2012

A handwritten signature in cursive script, reading "Deborah A. Batts", written in black ink. The signature is positioned above a horizontal line.

Deborah A. Batts  
United States District Judge